

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 8**

STEINGASS MECHANICAL CONTRACTING, INC.

Employer

and Case Nos. 8-CA-36199 8-CA-36285 8-RC-16759

**PLUMBERS AND PIPEFITTERS LOCAL 219, A/W UNITED
ASSOCIATION OF JOURNEYMEN AND APPRENTICES
OF THE PLUMBING AND PIPEFITTING INDUSTRY OF
THE UNITED STATES AND CANADA**

Petitioner

**ORDER SEVERING CASES, SETTING ASIDE ELECTION AND DIRECTING RERUN
ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, an election was conducted on October 28, 2005 among employees in the following described unit:

All full-time and regular part-time employees performing the work of plumbers, plumbers' helpers, plumbers' apprentices, pipefitters, pipefitters' helpers, pipefitters' apprentices, sprinklerfitters, sprinklerfitters' helpers, insulators, insulators' helpers, cement finishers, operators, carpenters, CDL truck drivers, non-CDL truck drivers / couriers, refrigeration technicians, HVAC technicians, electrical control technicians, laborers, utility line workers, HVAC helpers, calkers from the Employer's facility located at 754 Progress Drive, Medina, Ohio, the sole facility involved herein who were employed during the payroll period ending Sunday, October 2, 2005, but excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.

In addition to those employees in the unit who were employed during the payroll period ending October 2, 2005, all employees in the unit who have been employed additionally, all employees in the unit who have been employed for a total of 30 working days or more within the period of 12 months, or who have had some employment in that period and who have also been employed 45 working days or more within the 24 months

immediately proceeding the eligibility date for the election and who have not been terminated for cause or quit voluntarily prior to the completion of the last job for which they were employed shall be eligible to vote.

The Tally of Ballots shows that of approximately 51 eligible voters, 43 cast ballots, 15 of which were cast for and 21 against the Petitioner. There were seven challenged ballots, a number sufficient to affect the outcome of the election. On or about November 1, 2005 the Petitioner filed timely Objections to Election, a copy of which was duly served on the Employer.

The Petitioner also filed unfair labor practice charges in Case Nos. 8-CA-36199 and 8CA-36285. On January 31, 2006, I issued an Order Consolidating Cases, Consolidated Complaint and Notice of Hearing in those cases.

On February 27, 2006, the Acting Regional Director issued a Report on Challenged Ballots, in which he concluded that two employees were ineligible to vote in the election and that the challenges to their ballots should be sustained. The Acting Regional Director also concluded that the voting eligibility of five additional employees need not be resolved because those ballots were no longer determinative of the results of the election.

Also on February 27, 2006, the Acting Regional Director issued, by separate document, an Order Directing Hearing on Objections, Order Consolidating Cases and Notice of Hearing in Case Nos. 8-CA-36199; 8-CA-36285 and 8-RC-16759.

On April 12, 2006, the Board adopted the Acting Regional Director's findings and recommendations and remanded Case No. 8-RC-16759 for further processing in conjunction with Case Nos. 8-CA-36199 and 8-CA-36285.

On or about April 28, 2006, the parties entered into a bilateral informal settlement agreement, which resolved the allegations of the Consolidated Complaint.

The parties also executed a stipulation which resolved the objections to election in Case No. 8-RC-16759 by agreeing that the election should be set aside and a rerun election conducted. The parties have waived their rights under the Board's Rules and Regulations to a hearing on objections, the issuance of a hearing officer's report or administrative law judge's decision and the right to file exceptions and/or appeal those determinations.

The Petitioner also agreed that in the event the rerun election is conducted during the notice posting period established to remedy certain unfair labor practice allegations in connection with Case Nos. 8-CA-36199 and 8-CA-36285, the unremedied unfair labor practices referred to in the posted notice will not constitute grounds on which the Board may set aside the rerun election.

Because the parties have reached a mutually agreeable informal settlement of the allegations raised in the Consolidated Complaint in Case Nos. 8-CA-36199 and 8-CA-36285 and the Employer has agreed to a rerun election, I hereby order that the cases be severed and that the election conducted on October 28, 2005 be set aside.

Further, I will direct that on Friday, July 14, 2006, between the hours of 6:30 a.m. and 8:30 a.m., in a conference room at the Holiday Inn Independence, 6001 Rockside Road, Independence, Ohio, 44131, an election be conducted by an agent of the National Labor Relations Board.

DIRECTION OF RERUN ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued

subsequently, subject to the Board's Rules and Regulations.¹ Eligible to vote are those employed in the unit during the payroll period ending July 2, 2006, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

Also eligible to vote are those employees who have been employed for a total of 30 working days or more within the period of 12 months immediately preceding the eligibility date for the election, or who have some employment in that period and have been employed 45 working days or more within the 24 months immediately preceding the eligibility date for the election, and who have not been terminated for cause or quit voluntarily prior to the completion of the last job for which they were employed.

Those eligible shall vote whether or not they desire to be represented by Plumbers and Pipefitters Local 219 a/w United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada.

¹ The preparation and preelection check of the voting eligibility list should follow the principles applying to an original election. A fresh eligibility list will be needed for the rerun election. As such, a *Norris-Thermador* list will not be used in any rerun election directed by the Regional Director in the same unit described above.

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly, it is directed that an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the Regional Director by no later than close of business July 3, 2006. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

DATED at Cleveland, Ohio this 17th day of May, 2006.

/s/ Frederick J. Calatrello

*Frederick J. Calatrello
Regional Director
National Labor Relations Board
Region 8*